

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

TILLMAN T. HENDERSON,

Petitioner,

vs.

SCOTT FRAKES, and MICHELLE  
CAPPS,

Respondents.

**4:19CV3022**

**MEMORANDUM AND ORDER**

This matter is before the court on Petitioner's Motion for Rehearing ([filing 35](#)), which the court liberally construes as a Rule 59(e) motion to alter or amend<sup>1</sup> the court's Memorandum and Order ([filing 33](#)) and Judgment ([filing 34](#)) dismissing Petitioner's Petition for Writ of Habeas Corpus with prejudice. Petitioner asks for reconsideration of his habeas petition "on the merits" and for "valid reasons stated in the attached supporting brief." ([Filing 35](#).) However, Petitioner did not file a brief with his motion but rather filed a motion seeking an a 45-day extension to submit a brief in support of his motion. ([Filing 36](#).)

Rule 59(e) motions serve the limited function of correcting manifest errors of law or fact or to present newly discovered evidence. *United States v. Metro. St. Louis Sewer Dist.*, 440 F.3d 930, 933 (8th Cir. 2006). Such motions cannot be used to introduce new evidence, tender new legal theories, or raise arguments which could have been offered or raised prior to entry of judgment. *Id.*

The court carefully considered Petitioner's claims and arguments in its 63-page Memorandum and Order denying and dismissing Petitioner's habeas petition

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<sup>1</sup> A Rule 59(e) motion "must be filed no later than 28 days after the entry of judgment." Fed.R.Civ.P. 59(e). Petitioner's motion was timely filed on July 20, 2020.

with prejudice. Whatever the reasons for reconsideration Petitioner may assert in a future brief, the court sees no reason to reconsider the denial of Petitioner's habeas petition and will, therefore, deny Petitioner's motions.

IT IS THEREFORE ORDERED that: Petitioner's Motion for Rehearing ([filing 35](#)), construed as a motion to alter or amend the judgment under Rule 59(e), and Motion for Extension of Time ([filing 36](#)) are denied.

Dated this 27th day of July, 2020.

BY THE COURT:



Richard G. Kopf  
Senior United States District Judge